IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE Nos 27 and 27-A of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH-TAX

Versus

AMBALAL SARABHAI T. Nos 2 and 16

Appearance:

1. WEALTH TAX REFERENCE No. 27 and 27A of 1987

MR BB NAIK with MR MANISH R BHATT for Petitioner No. 1

MR MK PATEL for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 25/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

Although the Income Tax Appellate Tribunal, Ahmedabad has made only one reference, it is obvious that in substance there ought to have been two references because two assessees involved are two separate entities being Ambalal Sarabhai Trust No.2 and Ambalal Sarabhai Trust No.16, Ahmedabad. Accordingly, the two references shall be numbered as Wealth Tax Reference No.27 of 1987 and 27-A of 1987 respectively.

2. The common question referred for our opinion in case of the above named two assesses for assessment year 1975-76 in first case and for assessment year 1974-75 in second case is as under:-

"Whether, the Appellate Tribunal is right in law and on facts in holding that the assessee being a public charitable trust is entitled to exemption under section 5(1)(i) of the Wealth-tax Act, 1957?"

3. We have heard Mr BB Naik learned counsel for the applicant-revenue and Mr MK Patel learned counsel for the respondent-assesses in both the references.

4. The Tribunal rendered its decision dated 6-11-1985 in Wealth Tax Appeal Nos.1064 and 1065 of 1983 on the basis of its order in case of the same assesses for earlier years.

5. Mr MK Patel learned counsel for the assessee points out that the Tribunal followed its order in earlier matters wherein it was held that since both the assesses were held to be public charitable trusts under the provisions of the Income-tax Act,1961, the Tribunal held them to be public charitable trusts under the Wealth tax Act also. The learned counsel for the assessees has placed strong reliance on the decision dated 18-1-2001 of this Court in Wealth Tax Reference No.26 of 1985 wherein it has been held that in view of the statutory scheme of the Wealth Tax Act read with the Income Tax Act, where the trust is held to be a public charitable trust under the Income Tax Act, the revenue has to treat such a trust as a public charitable trust under section 5 of the Wealth-tax Act also.

6. In view of the undisputed position that the two respondent-assesses have been held to be public charitable trust under the Income-tax At, 1961, following the aforesaid decision of this Court in Wealth Tax Reference No.26 of 1985, we are of the view that the

Tribunal was right in holding that the assessee-trusts being public charitable trusts were entitled to exemption under section 5(1)(i) of the Wealth-tax Act, 1957.

7. We accordingly answer the question in both these references in the affirmative i.e. in favour of the assessee and against the revenue.

8. The References accordingly stand disposed of with no order as to costs.

(M.S.Shah,J)

(D.A.Mehta,J)

zgs/-